

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-196-T - ORDER NO. 2010-445
JULY 6, 2010

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| IN RE: Petition of Charleston Portable Storage, LLC; Portable Storage of North Carolina, LLC; Upstate Storage Partners, LLC; and Portable Storage and Moving of Columbia, LLC for a Declaratory Judgment |) ORDER GRANTING) DECLARATORY) JUDGMENT IN PART) AND DENYING IT IN) PART) |
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This matter comes before the Public Service Commission of South Carolina (“Commission”) on a Petition for Declaratory Order filed by Charleston Portable Storage, LLC, Portable Storage of North Carolina, LLC, Upstate Storage Partners, LLC, and Portable Storage and Moving of Columbia, LLC (together, the “Joint Petitioners”). The Joint Petitioners have requested that this Commission issue a Declaratory Order ruling that the Commission does not have jurisdiction over “PODS” services, and that the Certificates of the Joint Petitioners are therefore rendered moot. Because of the reasoning below, we grant the Declaratory Order in part and deny it in part at this time, subject to future submissions by two of the Joint Petitioners.

The Joint Petitioners hold the following Commission Certificates:

(1) Charleston Portable Storage, LLC – Certificate No. 9717:

HOUSEHOLD GOODS, as defined in R. 103-210(1):

Between points and places in Charleston, Berkeley and Dorchester Counties restricted to delivery of empty 16’x8’x8’ and 12’x8’x8’ PODS proprietary containers to shipper origins, loading by shipper, and pickup and delivery of shipper-loaded containers to shipper destinations or a warehouse with

shipper-loaded containers subsequently delivered from warehouse to shipper destinations.

- (2) Portable Storage of North Carolina, LLC – Certificate No. 9751:

HOUSEHOLD GOODS, AS DEFINED IN 26 S.C. CODE ANN. REG 103-210 (1) (SUPP. 2004)

BETWEEN POINTS AND PLACES IN HORRY, GEORGETOWN AND MARION COUNTIES, SOUTH CAROLINA

- (3) Upstate Storage Partners, LLC – Certificate No. 9728-A:

HOUSEHOLD GOODS, defined as in 26 S.C. CODE ANN. REG 103-210 (1) (SUPP. 2006)

BETWEEN POINTS AND PLACES IN CHEROKEE, GREENVILLE, SPARTANBURG, OCONEE, PICKENS, LAURENS, UNION, ANDERSON, YORK, NEWBERRY, MCCORMICK, GREENWOOD AND ABBEVILLE COUNTIES, SOUTH CAROLINA

- (4) Portable Storage and Moving of Columbia, LLC – Certificate No. 9737-A:

HOUSEHOLD GOODS, as defined in 26 S.C. CODE ANN. REG 103-210 (1) (SUPP. 2006)

BETWEEN POINTS AND PLACES IN RICHLAND, LEXINGTON, NEWBERRY AND FAIRFIELD COUNTIES, SOUTH CAROLINA AND RESTRICTED TO DELIVERY OF EMPTY 16'X8'X8' AND 12'X8'X8' PORTABLE STORAGE UNITS TO SHIPPER ORIGINS, LOADING BY THE SHIPPER, AND PICKUP AND DELIVERY OF SHIPPER-LOADED PORTABLE STORAGE UNITS TO SHIPPER DESTINATIONS OR A WAREHOUSE WITH SHIPPER-LOADED PORTABLE STORAGE UNITS SUBSEQUENTLY DELIVERED FROM THE WAREHOUSE TO SHIPPER DESTINATIONS.

In early 2010, this Commission considered the same issue in the Application of U-Haul Company of South Carolina, Inc. (“U-Haul”), for a Class E (Household Goods) certificate. Order No. 2010-91 discussed the SAFE, ACCOUNTING, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(“SAFETY-LU”). SAFETY-LU includes a “Limited Service Exclusion,” stating that the term household goods motor carrier “does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual other than an employee or agent of the motor carrier.” We held that U-Haul fell under the “Limited Service Exclusion,” and that the Commission’s jurisdiction was exempted by SAFETY-LU.

We hold that the same analysis that we expressed in the U-Haul case applies to at least Charleston Portable Storage, LLC and Portable Storage and Moving of Columbia, LLC in the present docket. With these two companies, the stated scope of authority in the two companies’ certificates indicates that the certificates allow loading only by the shipper, and, therefore, do not allow loading by an employee or agent of the motor carrier. In other words, the “Limited Service Exclusion” applies. Therefore, consistent with the U-Haul decision, we declare these two Certificates to be moot.

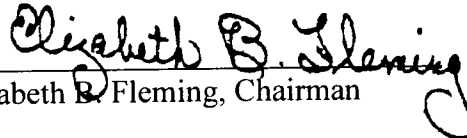
However, the scopes of authority for Portable Storage of North Carolina, LLC and for Upstate Storage Partners, LLC are not specifically limited to loading by the shipper, therefore, potentially granting authority for loading by employees or agents of the two companies, or for other transportation of household goods. However, if, in practice, the loading of the PODS is only done by the shippers contracting with these two companies, and no other transportation of household goods is taking place, it is possible that these two certificates could also be rendered moot. If this is the case, we direct that Portable Storage of North Carolina, LLC and Upstate Storage Partners, LLC furnish sworn affidavits to the effect that they only furnish PODS for loading and unloading by

shippers, and will not do otherwise if the Commission agrees to declare their certificates moot. Upon receipt of said affidavits, this Commission can reconsider the issue of mootness of the Certificates of these two companies under SAFETY-LU. Until such time as these two companies furnish said affidavits for consideration, we deny the request to declare the two certificates of these companies moot.

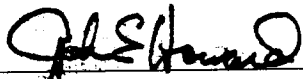
Accordingly, we grant in part and deny in part the request for a Declaratory Order, the denial being until such time as the indicated companies furnish the described sworn affidavits. Upon receipt of said affidavits, this Commission will reconsider this holding.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)